REMARKS

I. Status of the Claims

In the Final Office Action mailed on June 10, 2010, the Examiner rejected claims 1, 32, and 63 under 35 U.S.C. § 112, second paragraph; rejected claims 1, 32, and 63 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,297,026 to Hoffman (hereinafter, "Hoffman") in view of U.S. Patent No. 5,291,398 to Hagan (hereinafter, "Hagan") and an article "Should Insurance Agents be Offering CDs?" by Joseph M. Carll (hereinafter, "Carll"); rejected claims 2-9, 12-14, 33-40, 43-45, 64-71, and 74-76[1] under 35 U.S.C. § 103(a) as being unpatentable over Hoffman, Hagan, and Carll, in view of U.S. Patent No. 4,985,833 to Oncken (hereinafter, "Oncken"); and rejected claims 15, 16, 46, 47, 77, and 78 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman, Hagan, Carll, and Oncken and in view of U.S. Patent No. 5,987,436 to Halbrook (hereinafter, "Halbrook").

By this Reply, Applicants have amended claims 1, 3, 8, 12, 13, 15, 16, 32, 34, 39, 43, 44, 47, 63, 65, 69, 70, 74, 75, 77, and 78 and canceled claims 4, 5, 35, 36, 66, and 67 without prejudice or disclaimer. Claims 10, 11, 17-31, 41, 42, 48-32, 72, 73, and 79-93 were previously canceled. Claims 1-3, 6-9, 12-16, 32-34, 37-40, 43-47, 63-65, 68-71, and 74-78 remain pending and under current examination. In view of the following remarks, Applicants respectfully traverse the rejections contained in the Final Office Action.

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[1] While the rejection states "[c]laims 2, 3, 12-14, 33-40, 43-35, 64-71, and 74-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,297,026) Hoffman in view of (US 5,291,398) Hagan and Carll...in view of (US 4,985,833) Oncken," the body of the rejection appears to identify claims 2-9, 12-14, 33-40, 43-45, 64-71, and 74-76 as being rejected over Hoffman in view of Hagan, Carll, and Oncken. Final Office Action, pp. 6-9.

II. Rejections under 35 U.S.C. § 112

In the Final Office Action, the Examiner rejected claims 1, 32, 63 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Final Office Action alleged that "[t]he recitation 'allow' is not considered a positive recitation in the claim limitation." Final Office Action, p. 2. Without agreeing with the Examiner' allegations, Applicants have deleted the recitation and amended claims in a manner consistent with the Examiner's suggestions in the Final Office Action. Accordingly, Applicants request withdrawal of the rejection under 35 U.S.C. § 112.

III. Rejection of Claims 1, 32, and 63 under 35 U.S.C § 103(a)

Applicants respectfully traverse the rejection of claims 1, 32, and 63 under 35 U.S.C. § 103(a) as being unpatentable over Hoffman in view of Hagan and Carll. A *prima facie* case of obviousness has not be established.

The Final Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 198, 82 USPQ2d 1385 (2007). In particular, the Final Office Action has not properly determined the scope and content of the prior art, at least because the Final Office Action incorrectly interpreted the content of the cited references.

In particular, the Final Office Action has not properly determined the scope and content of the prior art. Independent claim 1, as amended, recites, among other things, "configuring, by the processor, the first portion of the financial investment fund for

payment of an anticipated need for liquidity by liquidating one or more of the plurality of certificates of deposit at respective maturity dates," and "configuring, by the processor, the second portion of the financial investment fund to fund a nonanticipative withdrawal of an individual fund among the plurality of individual funds from the financial investment fund by a corresponding investor among the plurality of investors at any time regardless of maturity dates of any of the plurality of certificates of deposit in the first portion." Hoffman, Hagan and Carll, alone or in combination, do not teach or suggest at least this element of amended claim 1.

The Final Office Action conceded that Hoffman and Hagan "failed to disclose, wherein the first portion...is used by the financial institution for providing cash to satisfy the anticipated need for liquidity, and wherein the financial investment fund is configured to allow at least one of a plurality of investors to withdraw from the financial investment fund at any time regardless of maturity dates of any of the plurality of certificates of deposit." Final Office Action, p. 5. However, the Final Office Action alleged that Carll cures these deficiencies. Id. Applicants respectfully disagree with this allegation.

Carll discloses that brokers, as opposed to banks, may also offer CD to investors. See Carll, p. 1. Accordingly to Carll, "[a]n advantage in purchasing a CD through a broker vs. a bank is the option to liquidate the investment before the maturity date without a preset penalty." Carll, p. 4. For example, "[s]hould a client decide to liquidate before the maturity date, the CD may be sold on the secondary market." Id. Alternatively, "if the market is not favorable, the CD can still be liquidated subject to the usual bank-imposed early withdrawal penalty." Id.

The Examiner interprets the "broker" and "client" in Carll as corresponding to the claimed "financial institution" and "investor," respectively. Final Office Action, p. 5. Even if true, a position Applicants do not concede, Carll does not teach or suggest "configuring, by the processor, the first portion of the financial investment fund for payment of an anticipated need for liquidity by liquidating one or more of the plurality of certificates at respective maturity dates," as recited by amended claim 1. Nor does the Final Office Action explain which portion of Carll discloses this element.

The Examiner further asserts that Carll's discussion of liquidating the CD deposits with brokers corresponds to the claimed "withdrawal...from financial investment fund." Final Office Action, p. 5. However, according to Carll, the CD can be liquidated on the secondary market without penalty, in which case the liquidation is paid for by another investor on the market rather than being funded by a "portion of the financial investment fund," as recited by amended claim 1. Alternatively, according to Carll, the CD can also be liquidated with a bank, but then the liquidation is subject to bank-imposed early withdraw penalty, rather than being funded by a "portion of the financial investment fund...at any time regardless of maturity dates of any of the plurality of certificates of deposit in the first portion," as recited by amended claim 1. See Carll, p. 4. As such, Carll does not teach or suggest "configuring, by the processor, the second portion of the financial investment fund to fund a nonanticipative withdrawal of an individual fund among the plurality of individual funds from the financial investment fund by a corresponding investor among the plurality of investors at any time regardless of maturity dates of any of the plurality of certificates of deposit in the first portion," as recited by amended claim 1.

For at least these reasons, Carll does not cure the deficiencies of Hoffman and Hagan. Therefore, the Final Office Action has not properly ascertained the differences between the prior art and independent claim 1. Accordingly, claim 1 is allowable over Hoffman in view of Hagan and Carll, whether taken alone or in any combination.

Independent claims 32 and 63, while of different scope, contain recitations similar to those of independent claim 1, and thus, should also be allowable over the cited references for at least the same reasons set forth above in connection with claim 1.

IV. Remaining Rejections under 35 U.S.C § 103(a)

Applicants respectfully traverse the rejection of claims 2-9, 12-14, 33-40, 43-45, 64-71, and 74-76 under § 103(a) as being unpatentable over Hoffman, Hagan, Carll, and Oncken; and the rejection of claims 15, 16, 46, 47, 77, and 78 under § 103(a) as being unpatentable over Hoffman, Hagan, Carll, Oncken and Halbrook. A *prima facie* case of obviousness has not be established.

Dependent claims 2-9, 12-16, 33-40, 43-47, 64-71, and 74-78 include all the elements recited in respective independent claims 1, 32, and 63. As discussed above, Hoffman, Hagan, and Carll, fail to teach or suggest all of the claimed elements, including "configuring...the first portion of the financial investment fund," and "configuring...the second portion of the financial investment fund," among other things, as recited by each of amended claims 1, 32, and 63. Oncken, directed to an extended federal insurance regulation system, (Oncken at Abstract,) and Halbrook, directed to a loan data processor, (Halbrook at Abstract,) do not cure the above noted deficiencies of Hoffman, Hagan, and Carll. Accordingly, dependent claims 2-9, 12-16, 33-40, 43-47, 64-71, and 74-78 are allowable for at least the same reasons set forth above in

connection with claims 1, 32, and 63, as well as by reason of reciting additional features not taught nor suggested by the cited references.

Furthermore, the Final Office Action has not properly ascertained the differences between the prior art and claims 2-16, 33-47, and 64-78. For example, with respect to claims 2, 33, and 64, the Final Office Action alleges that Oncken discloses the additional limitations of these claims at col. 2, lines 10-46. Final Office Action, p. 7. Although Oncken discloses "early withdrawal" from a certificate of deposit and associated penalties (Oncken at 2:44-46), Oncken does not teach or suggest that "the second portion is used when an investor requests" such an early withdrawal, as recited by claims 2, 33, and 64. Therefore, contrary to the Examiner's allegation, Hoffman, Hagan, Carll, and Oncken, taken alone or in combination, fail to teach or suggest each and every element of claims 2, 33, and 64.

In view of the above, the Final Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and claims 2-9, 12-16, 33-40, 43-47, 64-71, and 74-78. Consequently, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of the prior art. Moreover, the cited art does not support the rejection these dependent claims. Accordingly, the Examiner has not met the burden of establishing a *prima facie* case of obviousness of claims 2-9, 12-16, 33-40, 43-47, 64-71, and 74-78, and thus, the rejections of these claims under 35 U.S.C. § 103(a) must be withdrawn.

V. CONCLUSION

The preceding remarks are based on the arguments presented in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Final Office Action. The pending claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other bases of patentability. Furthermore, the Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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